

MINUTES
WEST LAFAYETTE REDEVELOPMENT COMMISSION
Morton Community Center – Multi-Purpose Room
222 N. Chauncey Avenue
West Lafayette, Indiana
January 20, 2016

The meeting was called to order by President Oates at 8:32 a.m.

The Pledge of Allegiance was recited.

Secretary Steve Curtis called the roll.

Present: Brian Bittner, Chris Campbell, Larry Oates, David Sturgeon, Steve Curtis and
Johari Miller-Wilson (arrived at 8:34).

Absent: Patrick Hein

Old Business:

Minutes

Commissioner Curtis moved to approve the minutes of the December 16, 2015 Redevelopment Commission meeting. Commissioner Sturgeon seconded. The minutes were approved as written 5-0.

Commissioner Curtis moved to approve the minutes of the January 6, 2016 Redevelopment Commission meeting. Commissioner Campbell seconded. The minutes were approved as written 5-0.

Update from the West Lafayette Public Arts Team

Eric Lucas, Chair of the West Lafayette Public Arts Team spoke on this topic. Mr. Lucas hopes to frequently provide the Redevelopment Commission with reports of the Public Arts Team to let the Commission know of their efforts and to promote the importance and effectiveness of the group. In 2015 the following projects were completed: 1) Travelouge was installed at Tapawingo Park done by Eric Nordgulen; 2) “Send” mural at the West Lafayette Post Office done by Craig Martin; 3) “Heron” was installed recently at the entrance to the Celery Bog Park by artist Jeff Laramore. In 2016 there are a handful of projects being considered. They include 1) a sign similar to the Heron sculpture at Celery Bog, but located at Cumberland Park; 2) Pop-up performance series of events scheduled for the middle of April; 3) POP! Goes Purdue which is a project celebrating former Purdue students who’ve had an impact on our society’s pop culture.

Project Updates

- No updates.

State Street Project Update

Public Works Director, David Buck, spoke regarding this project. Since the proposals were received on December 21, 2015 the attorneys, financial consultants and the technical teams have been reviewing the proposals with the intent to recommend scoring to the Joint Management Team members. The scoring has been done. Mr. Buck cannot speak to the technical side of the project or the financial details due to a confidentiality agreement.

President Oates confirmed that Mr. Buck has proposals for the State Street Project that have been received from two different proposers. His team has scored/evaluated these proposals. There has been a conclusion drawn regarding which is the better of two proposals, but he cannot inform the Redevelopment Commission the status of where these two proposals are due to his confidentiality agreement and the process with the BOT statute. President Oates stated that under the documents located on the State Street website there is instructions to offerors. Under provision 1.8.4 of that document there is a specific procedure to receive three redacted hard copies and one electronic copy of all respective proposals that are supposed to be subject to the Indiana Public Records Act. Mr. Buck believes those documents have been received, but they haven't been distributed to the Redevelopment Commission. Mr. Buck believes that once the procurement process is completed those documents can be released.

President Oates questioned since the proposers are required to redact the documents why can't they be seen ahead of time. Mr. Buck believes that even though the documents are redacted they can't be released due to the competitive information between the two proposals and once they are released the two proposers will know what the other one bid.

President Oates made comments regarding the transparency regarding the State Street Project despite the fact that this is the single largest project that has been done in the City of West Lafayette.

President Oates questioned if there had been any changes to this project as of now. Mr. Buck believes the term would be "relief events" in the P3 realm of projects. There are situations where the developers would be entitled to relief events, acts of God or things of that nature. Changes that they missed in their bid or in the documents by way of just missing an error in their part are not allowed as change orders or relief events. There is very specific language in the documents that address under what conditions a relief event would be awarded. President Oates asked what the difference between a relief event and a change order. Mr. Buck stated that it was basically the same thing. President Oates questioned if there has been a provision for contingency to pay for any relief events. Mr. Buck doesn't believe there has been anything set aside. Typically on a road project that is done by the Redevelopment Commission approximately 10% of the total project cost is set aside for change orders.

Without information regarding the project, the Redevelopment Commission doesn't know what they're getting for their investment. He believes it is time, until the Commission gets enough information, so that the public, the Commission and City Council knows what's going on, a pause button needs to be pressed on this project. There is currently not enough information to say to the public that this is a great project and that the City is getting value for its money.

Commissioner Miller-Wilson questioned if it was possible to expand who is a part of the Joint Board.

Mr. Buck stated that the Joint Board is meeting tomorrow and there is an item on the agenda to approve a Resolution accepting a recommendation from the Joint Management Team for preliminarily selecting the preferred or top scoring team. At that point, the redacted documents will be made available. A public hearing is scheduled pursuant to statute. The public will have a period of time to review the documents before a final commitment resolution is approved.

President Oates asked if the City is committed to this project once the final team is selected. Mr. Buck stated that the City is committed to that team and making all of the documents available at that point. The City is not committed to a commercial close and a contract with that team at that point in time until after the public hearing and a resolution by the Joint Board. President Oates confirmed that the resolution will be done by the Joint Board and will not be coming back to the Redevelopment Commission or the City Council.

Commissioner Miller-Wilson questioned whether or not they would go back to the drawing board if the project came back and the public hated it. Mr. Buck would hope that would be the case.

Mr. Brooks stated that the parties have been following the Build-Operate-Transfer statute. Mr. Buck stated that is correct, but it's also because of the competitive edge between the two teams. Each team doesn't know what the other one submitted. Once that is released the teams are going to know what the other one submitted.

President Oates asked why the redacted copies haven't been produced at this point. Mr. Buck doesn't believe that they are allowed to be under the BOT statute. President Oates states that there is specific reference to the Indiana Public Records Act that makes sure that those documents are available under that Act. He stated that the Commission is extremely transparent with what they do. It's important for the taxpayers of this community to know how their tax dollars are being spent. At this point, what has occurred with the BOT statute does not follow the standard operating procedures of the Commission.

President Oates moved that the West Lafayette Redevelopment Commission specifically (he asked that this motion be memorialized):

- 1) withdraw all authority the West Lafayette Redevelopment Commission has granted to the Joint Board to work on the Redevelopment Commission's behalf regarding the State Street Project;
- 2) withdraw all funding provided to the State Street Project by the West Lafayette Redevelopment Commission;
- 3) prohibit the West Lafayette Redevelopment Commission president and secretary from executing any and all documents on behalf of the Redevelopment Commission with regard to the State Street Project;
- 4) withdraw all support of the Redevelopment Commission for the State Street Project;

- 5) prohibit any and all City of West Lafayette officials from binding the Redevelopment Commission in anyway with regard to the State Street Project;

Until the West Lafayette Redevelopment Commission receives adequate information and public disclosure of what is going on with this project.

Commissioner Campbell seconded.

Commissioner Curtis asked Mr. Buck if after tomorrow's meeting, after everything is decided, will the information be available for the public. Mr. Buck stated that other than redacted information such as certain financial information or tax-type information, he believes that they will be available. Commissioner Curtis asked if the Redevelopment Commissions could have unredacted versions (yet confidential) since the Redevelopment Commission is funding this project. Mr. Burns stated that this is the first time this procurement method has been used. There is a time and a place for all things under this BOT statute. The information that is needed by the Redevelopment Commission will only be made public when there is not a competitive disadvantage to the City. The BOT process is different. It's very front-end loaded and there is a lot of information that is not made available until the two competitors have finished competing against one another and the City has gotten the absolute best deal that they can get. There are certain things that Mr. Buck is not privy to from the financial standpoint. There is a technical side and a financial side and those two sides do not cross until this process is over. Mr. Burns stated that his commitment to the Commission and everyone listening is that they will have all of the information they need to look at the project, to see if there have been changes to the project and to see what it's going to cost to make a judgment whether or not that's a good deal for the city. Mr. Burns isn't privy to that information either. This body and the public will know exactly what they're getting and exactly what it's going to cost before any decision is going to be made. The process allows a recommendation to be made by the Joint Management Team (Mr. Buck, Mr. Poole, Mr. Cline and Mr. Peterson). The four of those individuals have accumulated the scoring information and will make a recommendation to the Joint Board. Mr. Poole and Mr. Buck will make a recommendation on what they know from their side of the information. Mr. Buck will take the financial score and combine it with the technical score to make one score for the bidder. Mr. Burns stated that this project will be given a public hearing. People will know everything about the project and the public will be allowed to state their input.

Commissioner Sturgeon confirmed that the decision being made tomorrow, won't be a final decision. Mr. Burns stated that this decision just leads to the next phase of the negotiation project. The city hasn't signed any agreement yet. They have the opportunity to improve any aspects of the project that they don't like. Part of that includes public input. The paperwork for this isn't signed until commercial close.

President Oates asked when this decision comes back to a body associated with the City of West Lafayette for final approval. Mr. Burns stated that it doesn't come back to any Commission or Council for final approval. The public approvals have all been completed.

Mr. Burns and President Oates discussed change orders in regard to the State Street Project as well as current projects.

Mr. Burns stated that it would be counter-productive for the current motion to pass. Possibly it should be tabled. The information will be available to the Redevelopment Commission after the Joint Board meets tomorrow. Mr. Brooks stated that he's not sure this motion is effective. What has been previously passed has been approved by the City Council and they had the final approval of all funding that the Redevelopment Commission passed.

President Oates asked President Bunder (City Council President) what his opinion of this motion was. Mr. Bunder thanked the Redevelopment Commission for helping make a public statement about the level of secrecy that has been a part of the Joint Board. President Bunder doesn't know if anything will go back in front of the City Council again, his understanding is that they don't see this again. The City Council will not be conducting the public hearing or taking a vote on the public hearing. The final decision is the product of the Joint Board.

Mr. Brooks stated that there is a state statute that prohibits a lot of this information to come out. Mr. Burns, Mr. Brooks, Mr. Buck and Mr. Poole have all signed a confidentiality agreements. They can't even speak to the Mayor regarding this information because the statute that prohibits them from doing that.

The Mayor spoke regarding this project and the confidentiality agreements. When he learned that Mr. Poole and Mr. Buck couldn't discuss the project with him after they reviewed the project, he wasn't happy regarding that decision because right now he's the representative of this community. He understands however, that there are laws that protect the information. In government, everything we do is transparent. This project is different. The Mayor hopes that when this information is collected and the scoring is done, all of the information will be made available to the public. The Mayor stated that if this isn't what we want, we are in a position to negotiate so that we can get more of what we want.

Commissioner Curtis asked what the time frame is going forward. There is a meeting tomorrow with the Joint Board where they make a decision. What's the goal for setting the project to move forward and start construction? Mr. Buck stated that right now, it is indeterminate. They'd like the opportunity to go back to the contractor and say that we'd like more items if necessary and based on public comment. There is a notice period that has to be made for having a public hearing.

Presidents Oates asked if the entire proposal would be available to the public before the public hearing. Mr. Buck understands that it will be available before then.

President Oates believes that this Commission should slow this project down until this Commission gets the information that they need before this moves any further. Commissioner Curtis was always under the understanding that the City could put the brakes on this project if before close they don't like what the contractors have come up with. Mr. Buck believes that if public comment was made at the Joint Board stating, "I'd like you to change this part of the

project..." or "stop the process..." the Commission would have to rely on the Joint Board to take that move on the behalf of the City.

Commissioner Sturgeon confirmed that the proposals that came back were designed to fit what the City was asking for from a project prospective. President Oates stated that they aren't sure exactly what has come back because the Commission hasn't seen anything. The city set a base portion of the project and 7-8 scope ladder portions. The contractors have to provide the Joint Board with the base, and then they work their way up the ladder as to what they can provide for the \$120 million. There could be someone that comes back and just provides the base scope. Someone else could say they can give us the base and all eight ladders. Commissioner Curtis stated that we will know eventually regarding what exactly will be provided. President Oates stated this is the problem with the project. The Commission doesn't know exactly what is going to happen with this project because there is no transparency.

Commissioner Sturgeon believes that the openness of this project as it relates to the state statutes vs the inability to have the agenda posted on time are two separate issues. President Oates stated that it's not just an issue of not having the agenda posted. It's all of the financial information regarding bills that the City of West Lafayette have been paying on behalf of the Joint Board where we don't have the back up to even see what those bills are for. Mr. Brooks stated that the City hasn't paid any bills. We have an agreement to reimburse to pay those bills at some point, but we haven't paid any bills at this point.

Commissioner Curtis believes that the people on the Joint Board have a lot more expertise than he does in road construction and finance of those road constructions. The City has already laid out the parameters. This is an entirely different ballgame and he thought the Commission was on board with when it signed off on this project. He understands the transparency issue and President Oates has done a great job of that. Commissioner Curtis thinks that this will be transparent when it comes to that point, but the process isn't at that point yet. He has to put the faith in the people that are in charge that they're doing everything to the letter of the law and that they have the best interests of the City of West Lafayette and the taxpayers in mind so they can move forward on the project.

Commissioner Miller-Wilson stated that she agrees with both Commissioner Curtis and President Oates. Transparency is important and the people that have been given the job to do this, are trusted and have the best interests of the City in place. It would be nice to have the proposal out there before the Commission can say that it releases funding. If the City is asking for the Taj Mahal and get a wooden shack, that won't be desirable. There has to be a mechanism to say, "No, this isn't really what we were wanting to fund." There shouldn't be a check written until the Commission sees what it is spending the money on.

Commissioner Campbell asked what mechanism is there for the Redevelopment Commissioners to give input regarding changes to the proposal. Would they have to go into the Joint Board meeting and speak as public? Mr. Brooks stated confirmed that is correct.

Commissioner Sturgeon confirmed that if the proposal came back with a woodshed, the Redevelopment Commission would have no say after it's all done to say they don't want it.

They'd simply be responsible for writing the checks. President Oates stated that's why he's so concerned regarding this project. Mr. Brooks suggested scheduling a special meeting to take place after the Joint Board meets where at that point the Commission can discuss the information that has come out.

President Oates restated the motion.

The roll call vote to approve the motion:

Yay: Chris Campbell, Johari Miller-Wilson, Larry Oates

Nay: Dave Sturgeon, Steve Curtis

The Motion passes on a vote of 3-2.

Other

There was no further old business.

New Business:

Review of Financial Schedules

There is a new format to the financial schedules due to having a new City Controller. Treasurer Gray wasn't present at the meeting so President Oates discussed the schedules.

Payment of Claims

Levee/Village TIF Claims \$243,408.74

Commissioner Miller-Wilson moved to pay the Levee/Village TIF claims. Commissioner Campbell seconded.

The roll call vote:

Aye: Campbell, Miller-Wilson, Oates, Sturgeon, Curtis

Nay:

The motion to approve the payment of the Levee/Village TIF claims in the total amount of \$243,408.74 passed 5-0.

KCB TIF Claims \$115,709.10

Commissioner Campbell moved to pay the KCB TIF claims. Commissioner Miller-Wilson seconded.

The roll call vote:

Aye: Campbell, Miller-Wilson, Oates, Sturgeon, Curtis

Nay:

The motion to approve the payment of the Levee/Village TIF claims in the total amount of \$115,709.10 passed 5-0.

Claims approved by the Board of Works with approval from RDC

KCB TIF district in the amount of \$547,072.49
Levee/Village TIF district in the amount of \$313,904.82
Sagamore TIF district in the amount of \$20,404.82

President Oates asked that the Commission grant the authority to the West Lafayette Board of Works to pay the attorney fees claim in the amount of \$3,800.00. Moved by Commissioner Miller-Wilson. Commissioner Sturgeon seconded. All approved.

Cumberland Ave., Phase 3 – Change Order No. 9

Public Works Director David Buck spoke regarding this project. In December, Mr. Buck came to the Commission with a substantially complete draft form of this Change Order and asked the Commission to approve a not to exceed amount. This is the final form of that Change Order. The final Change Order is for \$130,266.76 which is less than the not to exceed amount. Commissioner Curtis moved to approve Cumberland Ave., Phase III, Change Order No. 9 in the amount of \$130,266.76. Commissioner Campbell seconded.

The roll call vote to approve the motion:

Aye: Campbell, Miller-Wilson, Oates, Sturgeon, Curtis

Nay:

The motion was passed 5-0.

Yeager Road – Agreement for Engineering Services

Public Works Director David Buck spoke regarding this project. This is an agreement between the Redevelopment Commission and VS Engineering to do a topographic survey and preliminary engineering report on the third phase of improvements on Yeager Road between Sagamore Parkway and Cumberland Avenue. The road is in poor condition and there is a contract to do a micro-surface reseal to buy a little more time. This is the first step of reconstructing this road as a part of the Capital Improvement Plan. This contract is in the amount of \$56,720 and comes out of the \$200,000 line item in the Sagamore TIF for this project. Commissioner Campbell confirmed that this also includes evaluating the storm water flow for Plaza Park. Commissioner Campbell moved to approve the Engineering Agreement between the West Lafayette Redevelopment Commission and VS Engineering for work on Yeager Road Project in an amount not to exceed \$56,720. Commissioner Miller-Wilson seconded.

The roll call vote to approve the motion:

Aye: Campbell, Miller-Wilson, Oates, Sturgeon, Curtis

Nay:

The motion was passed 5-0.

Parsons Brinckerhoff – Task Order No. 8 – Kingston Trail Project

Parks Superintendent Janet Fawley spoke regarding this project. This is to begin the project of Kingston Trail which is from Kingston Drive from Salisbury to Rose Street. This will connect to the Happy Hollow Trail that goes into the park. This is a task order for \$14,920 to get the

surveying done. President Oates asked Ms. Fawley that she discuss any possible cash flow issues with the Treasurer before a full contract is brought before the Commission. This is coming out of the Kingston Trail Project line item coming out of Levee/Village. Commissioner Campbell moved to approve the Parsons Brinckerhoff Agreement No. 35687G, Task Order No. 8 between Parsons Brinckerhoff and the West Lafayette Redevelopment Commission in an amount not to exceed \$14,920 with regard to the Kingston Trail Project. Commissioner Curtis seconded.

The roll call vote to approve the motion:

Aye: Campbell, Miller-Wilson, Oates, Sturgeon, Curtis

Nay:

The motion was passed 5-0.

CSO Relief Interceptor – River Road Improvements

Public Works Director David Buck asked to table this due to determine if this should go to the Wastewater Department for them to consider.

Other

None.

President Oates stated that a special meeting should be scheduled for the Redevelopment Commission. The Commissioners looked at their calendars and they agreed upon February, Wednesday 3, 2016 at 6:00 p.m. in the Morton Community Center.

There is a Joint Board meeting tomorrow in the West Lafayette Public Library at 4:30 p.m.

Public Comment

Public Comment was requested. The next meeting of the Commission was confirmed.

**Wednesday, February 3, 2016 @ 6:00 p.m.
Morton Community Center**

**Wednesday, February 17, 2016 @ 8:30 a.m.
Morton Community Center – Multi-purpose Room**

Adjourn

There being no further new business. Commissioner Sturgeon moved to adjourn. Commissioner Miller-Wilson seconded. The meeting was adjourned at 9:50 a.m.

Stephen B. Curtis

Secretary

Approved:

Lawrence T. Oates
President